

# Privacy Policy

Tuesday, 28 February 2006

Last Updated Thursday, 26 July 2007

## Internet

For Internet transactions, the South Carolina State Library in general adopts the Privacy Policy of [sc.gov](http://www.sc.gov), located at <http://www.sc.gov/Policies/Privacy.htm>. Provisions of the USA Patriot Act may affect the confidentiality of certain Internet records (see below for additional information). Registration and Circulation Records

The South Carolina State Library collects personal information pertaining to individuals solely for the purpose of registering those individuals as borrowers of library materials.

Library registration and circulation records are confidential under Title 60, Chapter 4 of the Code of Laws of South Carolina, 1976:

**SECTION 60-4-10.** Records identifying library patrons as confidential information; disclosure.

Records related to registration and circulation of library materials which contain names or other personally identifying details regarding the users of public, private, school, college, technical college, university, and state institutional libraries and library systems, supported in whole or in part by public funds or expending public funds, are confidential information. Records which by themselves or when examined with other public records would reveal the identity of the library patron checking out or requesting an item from the library or using other library services are confidential information. The confidential records do not include nonidentifying administrative and statistical reports of registration and circulation. The confidential records may not be disclosed except to persons acting within the scope of their duties in the administration of the library or library system or persons authorized by the library patron to inspect his records, or in accordance with proper judicial order upon a finding that the disclosure of the records is necessary to protect public safety, to prosecute a crime, or upon showing of good cause before the presiding Judge in a civil matter.

**SECTION 60-4-20.** Definitions.

As used in this chapter, the term "registration records" includes any information which a library requires a patron to provide in order to become eligible to borrow books and other materials, and the term "circulation records" includes all information which identifies the patrons borrowing particular books and other materials.

**SECTION 60-4-30.** Penalties.

Any person violating the provisions of Section 60-4-10 must upon conviction be fined not more than five hundred dollars or imprisoned for not more than thirty days for the first offense, must be fined not more than one thousand dollars or imprisoned for not more than sixty days for the second offense, and must be fined not more than two thousand dollars or imprisoned for not more than ninety days for the third or subsequent offense. USA Patriot ActThe federal Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 ("USA Patriot Act"), which became law on October 26, 2001, expanded the authority of the Federal Bureau of Investigation and law enforcement to gain access to library records.

Enhanced Surveillance Provisions Affecting Library Confidentiality:

**Section 215: Access to Records Under Foreign Intelligence Security Act (FISA)**

Allows an FBI agent to obtain a search warrant for "any tangible thing," which can include books, records, papers, floppy disks, data tapes, and computers with hard drives.

Permits the FBI to compel production of library circulation records, Internet use records, and registration information stored in any medium.

Does not require the agent to demonstrate "probable cause;" the existence of specific facts to support the belief that a crime has been committed or that the items sought are evidence of a crime. Instead, the agent only needs to claim that he believes that the records he wants may be related to an ongoing investigation related to terrorism or intelligence activities, a very low legal standard.

Libraries or librarians served with a search warrant issued under FISA rules may not disclose, under of penalty of law, the existence of the warrant or the fact that records were produced as a result of the warrant. A patron cannot be told that his or her records were given to the FBI or that he or she is the subject of an FBI investigation.

Overrides state library confidentiality laws protecting library records. Codified in law at 50 U.S.C. §1862.

## Section 216: Relating to the Use of Pen Register and Trap and Trace Devices

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Extends the telephone monitoring laws ("pen register," "trap and trace") to include routing and addressing information for all Internet traffic, including e-mail addresses, IP addresses, and URLs of Web pages.

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State law enforcement agencies may apply for and obtain an order under this provision, which is not limited to the investigation of terrorism or foreign intelligence matters.

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Federal agents can obtain a nationwide court order for a wiretap from any federal court having jurisdiction over the offense under investigation.

The officers and agents seeking warrants under the pen register statute only need to affirm that the information sought is relevant to a criminal investigation.

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Compels a recipient of a monitoring order to provide all necessary cooperation to law enforcement authorities to facilitate installation of the monitoring device, or provide the information to the investigating officer from their own records. The recipient cannot disclose that communications are being monitored.

Libraries that provide access to the Internet and e-mail service to patrons may become the target of a court order requiring the library to cooperate in the monitoring of a user's electronic communications sent through the library's computers or network. Codified in law at 18 U.S.C. §§3121-3127

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## Section 214: Pen Register and trap and trace authority under FISA

Extends the FBI's telephone monitoring authority in FISA investigations ("pen register," "trap and trace") to include routing and addressing information for all Internet traffic, including e-mail addresses, IP addresses, and URLs of Web pages.

As with Section 215, the agent only needs to claim that he believes that the records he wants may be related to an ongoing investigation related to terrorism or intelligence activities, a very low legal standard.

As with Section 216, libraries that provide access to the Internet and e-mail service to patrons may become the target of a court order.

Codified in law at 50 U.S.C. §1852

The South Carolina State Library discloses confidential records in accordance with all Federal and State Laws. For more information about the USA PATRIOT Act and its relationship to library records, visit the American Library Association's website at <http://www.ala.org/ala/oif/ifissues/usapatriotactlibrary.htm>.